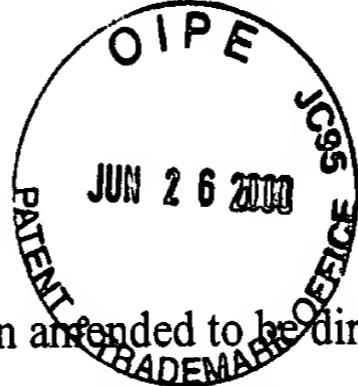


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The pending claims have been amended to be directed to a chimeric construct comprising a P-selectin ligand and another molecule, and methods of using the same to treat restenosis or atherosclerosis. In particular, the claims have been amended to replace the term "agent" by a chimeric construct comprising a P-selectin ligand and another molecule, as previously recited in claims of 44 and 55, now cancelled.

Support for new claims 64-66 can be found, e.g., starting in the last paragraph of page 8 through page 9, lines 1-9.

Response to Restriction Requirement Under 35 U.S.C. §121

In the Office Action mailed from the Patent Office on April 12, 2000, the Examiner required election of one of the following groups:

- I. Claims 40-43, 45-54, and 56-60, drawn to methods for treating or inhibiting restenosis associated with a vessel-corrective technique using an inhibitory agent, with a further election of one of the following species: an inhibitory protein, inhibitory peptide, an inhibitory carbohydrate, an inhibitory glycoprotein, a substance obtained form a snake venom, or a substance obtained from a plant extract; and
- II. Claims 44, 55, 61, and 62, drawn to a chimeric construct between a P-selectin ligand or fragment thereof and another molecule, and a method of using the same to treat or inhibit restenosis or atherosclerosis associated with a vessel-corrective technique.

Applicants hereby elect the invention of Group II (i.e., previously claims 44, 55, 61 and 62; now claims 40-42, 45, 49-53, 56, and 59-62), with traverse. As described above, Applicants have amended the presently pending claims (i.e., claims 40-42, 45, 49-53, 56, and 59-62) to be directed to a chimeric construct comprising a P-selectin ligand and another molecule, and methods of using the same to treat restenosis or atherosclerosis. Applicants also respectfully request that claims 41, 49, 50, and 52, 59 and 60 be re-joined with the Group II claims since these claims have been amended to depend from amended claims 40 and 51, respectively. The invention of Group I (drawn to a method of treating restenosis using an inhibitory agent selected from the group consisting of: an inhibitory protein, inhibitory peptide,

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an inhibitory carbohydrate, an inhibitory glycoprotein, a substance obtained form a snake venom, and a substance obtained from a plant extract) has been canceled, pursuant to 37 C.F.R. § 1.142 (b), as being directed to one or more non-elected inventions.

Applicants respectfully traverse the restriction under 35 U.S.C. § 121 to the extent that the inventions of Groups I and II have been restricted from each other and propose instead that these groups be examined as patentably distinct species pursuant to M.P.E.P. 809.03 on the grounds that Applicants have presented an allowable generic claim which encompasses the patentably distinct species of the invention of Group II. Specifically, Applicants have presented an allowable generic linking claims 39-40 and 51, drawn to a method for treating restenosis or atherosclerosis in an animal, comprising administering to said animal an agent (e.g., a protein, peptide, glycoprotein, carbohydrate) capable of inhibiting an interaction between P-selectin and its ligand, in conjunction with or after a vessel corrective technique. The generic linking claims 39-40 and 51 encompass the species of a chimeric construct comprising a P-selectin ligand or a fragment thereof, as presently encompassed by the Group II claims. Moreover, Applicants submit that the claimed agents (e.g., a chimeric construct comprising a P-selectin ligand or a fragment thereof) inhibit or reduce restenosis or atherosclerosis by blocking an interaction between P-selectin and its ligand. Applicants believe that a search of subject matter of the claims of Group I and Group II together would not be unduly burdensome on the Examiner.

Accordingly, in light of generic claims 39-40 and 51, and the arguments provided above, Applicants believe the restriction requirement under 35 U.S.C. §121 to be improper.

Although for the foregoing reasons, Applicants believe that a restriction under 35 U.S.C. §121 is improper given the generic claims, a species election may be proper for searching purposes only, posing no undue burden on the Examiner. Thus, Applicants hereby elect the

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species of a chimeric construct comprising a P-selectin ligand or a fragment thereof. Claims 40-42, 45, 49-53, 56, and 59-62 read on the elected species.

It is Applicants' understanding that the species election is for searching purposes only and upon a finding of allowability of the elected species, the remaining species will also be searched.

It is the Applicants' further understanding that under 35 U.S.C. §121, an election of a single species for prosecution on the merits is required, to which the claims will be restricted if no generic claim is finally held allowable. Applicants submit that claims 39-40 and 51 are generic. Applicants further understand that upon the allowance of a generic claim, they will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141 et seq.

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SUMMARY

If a telephone conversation with Applicant's Attorney would expedite the prosecution of the above-identified application, the Examiner is urged to call Applicant's Attorney at (617) 542-5070. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,
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